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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/562,854	12/27/2005	Claudia Cerruti	2723-0147PUS1	6428
2292. 7590 06/28/2007 BIRCH STEWART KOLASCH & BIRCH PO BOX 747 FALLS CHURCH, VA 22040-0747			EXAMINER MENEZES, MARCUS	
			ART UNIT 3677	PAPER NUMBER
			NOTIFICATION DATE 06/28/2007	DELIVERY MODE ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

mailroom@bskb.com

<b>Office Action Summary</b>	Application No.	Applicant(s)	
	10/562,854	CERRUTI ET AL.	
	Examiner	Art Unit	
	Marcus Menezes	3677	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

*June 14*

- 1) ☒ Responsive to communication(s) filed on 23 January 2007.
- 2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 13 is/are allowed.
- 6) ☒ Claim(s) 1-4 and 8-12 is/are rejected.
- 7) ☒ Claim(s) 5-7 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 27 December 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

**DETAILED ACTION**

Applicant's request for reconsideration of the finality of the rejection of the last Office action is persuasive and, therefore, the finality of that action is withdrawn. The office action that follows is fully responsive to the amendment of 6/14/2007.

***Response to Arguments***

Applicant's arguments regarding claim 13, amended to include portions omitted due to a printing error, have been considered and are persuasive. Claim 13 is allowed.

Applicant's arguments filed 6/14/2007 have been fully considered but they are not persuasive regarding that the tongue element is wholly covered or coated. Examiner believes the prior art does teach the tongue element including a metal insert wholly covered by a plastic or rubber housing or coating - a 103(a) rejection was made with Nishino to include this limitation:

20 Thus, the buckle body cover is made of a resinous material which may further be covered with a protective soft resinous material, and on the other hand, the tongue plates exposed outside of the buckle in engaged state are also covered with a protective resinous material. The buckle body basal plate is integrally formed with the buckle body cover, and the buckle body and the tongue plates in locked state are arranged in such manner that  
25 the clearance between the resin-coated buckle body and the resin-coated tongue plates is so narrow that there is no danger of children's fingers being inserted and nipped between the buckle body and the tongue plates when the belts are kept in locked state.

Clearly, the tongue plates are covered with resinous material. NOTE applicant is NOT claiming the tongue plates are wholly covered - only that the tongue element includes a metal insert wholly covered. The metal insert is undefined, and the portion of Nishino that is wholly covered is considered the metal insert.

**DETAILED ACTION**

***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

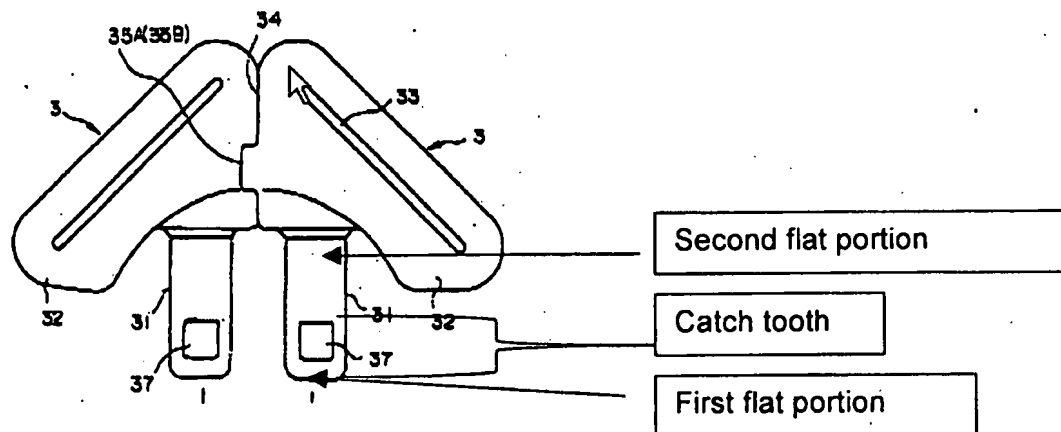
(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-4 and 8-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Koyanagi et al. (US-5,584,107, hereinafter "Koyanagi") in view of Nishino et al. (US 4,757,579).

Koyanagi discloses a coupling device for restraining belts, comprising a body (10) adapted to be connected to at least one belt branch (2), and a pair of tongue elements (3) each adapted to be connected to a respective belt branch, wherein each <sup>tongue</sup> ~~tongue~~ element includes an attachment point (33) for connection with the respective belt branch and a stem portion (31) arranged to be received and locked in the body, said stem portion defining a catch tooth represented by the area surrounding and including the hole (37), wherein said catch tooth is for locking the tongue element in the body. (See Fig. 4 and 6a) Further, each tongue element comprises of a metal insert that is partially covered by a coating, but said tongue element, including the metal insert, is not wholly covered or coated by a plastic or rubber housing or coating. (See col. 5, lines 9-17).

Nishino et al. teaches of tongue elements on a similar device wherein said tongue elements are "covered with a protective resinous material." (See col. 4, lines 15-25). Note resinous materials include thermoplastic and rubber resins.

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have included the teaching of the wholly covered tongue element in Koyanagi in view of Nishino in order to protect the tongue elements from scratching or rust.



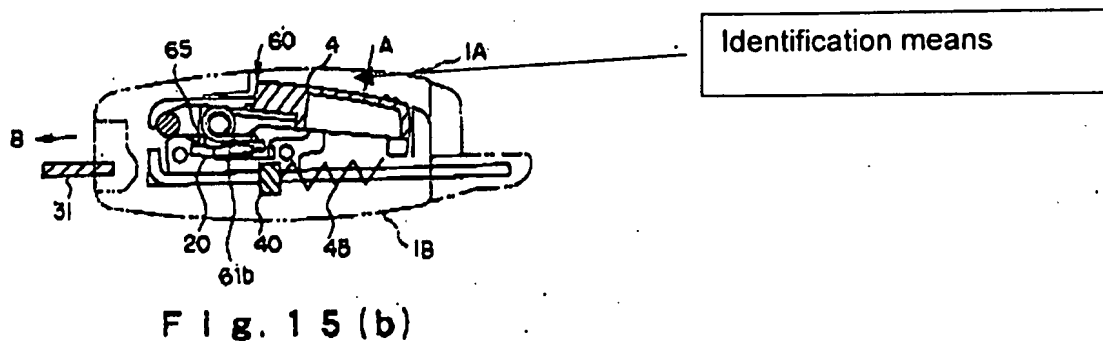
Koyanagi further discloses that the metal insert of each tongue element comprises a substantially flat portion having a first part extending into the attachment portion and a second part extending into the stem portion of the tongue element. As for the limb, such a modification to the metal insert would have involved a mere change of shape of an element. A change in shape or form is generally recognized as being within the level of ordinary skill in the art. Further, nothing essential or unexpected is offered from this shape.

Koyanagi also discloses that the body comprises of a latching mechanism that includes a locking means (20,22) arranged to be moved in a perpendicular direction to the direction of insertion of the stem portions of the tone elements into and out of the body from a coupled position, in which the locking means engages the catch teeth of the tongue elements to prevent the latter from being ejected from the body and a released position, in which said locking means disengages from the catch tooth, thus allowing the ejection of the elements from the body. (See Fig. 6a)

Koyanagi further discloses that the latching mechanism further includes a pair of slider elements (40), each associated to a respective tongue element, wherein the said slider elements being adapted to slide parallel to the direction of insertion and ejection of the stem portions of the tongue elements into and out of the body and are biased by a spring (45) so as to react to the insertion and facilitate the ejection of the tongue elements. (See Figs. 6 and 7)

Further disclosed is that said locking means (20) comprises of a locking rod (22) and in that the said slider elements are arranged to prevent the locking rod from moving to the coupled position when both the tongue elements are not inserted into the body. (See Fig. 6(a)).

Also, identification means associated with the push-bottom for indicating to the user whether the device is in the coupled position or released position can be coloring placed on the inner side wall next to the push bottom of Koyanagi. This is a matter of design choice wherein the apparatus would perform equally as well without said identification means. (See below)



Also disclosed by Koyanagi about said tongue elements are connecting members (35A,35B) for ensuring the alignment of the tongue elements. (See Fig. 4 and col. 5, lines 20-32). Further, said connecting members comprise at least a projection (35B) formed by the one tongue element and a cavity (35A) provided in the other tongue element for receiving the respective projection.

#### **Allowable Subject Matter**

3. Claims 5-7 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

*3a. Claim 13 is allowed.*

#### **Response to Arguments**

4. Applicant's arguments with respect to claim 1 has been considered but are moot in view of the new ground(s) of rejection, as per the office action of 3/14/07.

*Note that examiner believes the prior art does in fact teach of tongue plates being covered* *per*

Applicant should note that it has been held that the recitation that an element is "adapted to" perform a function is not a positive limitation but only requires the ability to so perform. It does not constitute a limitation in any patentable sense. *In re Hutchison*, 69 USPQ 138.

### ***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Marcus Menezes whose telephone number is 571-272-6284. The examiner can normally be reached on Mon - Fri 8 AM - 5:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, J. J. Swann can be reached on 571-272-7075. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.



Art Unit: 3677

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

MM

Katherine W Mitchell  
Primary Examiner  
Art Unit 3677

A handwritten signature in black ink, appearing to read 'K Mitchell', is written below the printed name.